

Defendants.

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Civil Action No.: 3:17-cv-00461-REP

Defendant Matt Martorello (“Martorello”) respectfully requests that the Court strike Plaintiffs’ Reply In Support of Motion to Compel Information Withheld On The Basis Of Attorney-Client Privilege and related exhibits, ECF Nos. 395, because Plaintiffs’ reply raises new arguments, cites new authority, and relies on new exhibits that were not raised in or attached to Plaintiffs’ original motion. Because Martorello was denied leave to file a sur-reply, Martorello has been denied the opportunity to respond to Plaintiffs’ new arguments and evidence to his significant prejudice. This includes both denying Martorello an opportunity to respond to Plaintiffs’ new exhibits consisting of documents that were produced after his response date but before Plaintiffs’ reply date and to present evidence that rebuts Plaintiffs’ new arguments and exhibits taken from the very same document productions (produced after his response date) as Plaintiffs’ new reply exhibits. Absent Martorello being provided an opportunity to respond to the new arguments and alleged evidence in Plaintiffs’ Reply and to present the new evidentiary

materials that were not available at the time of his response, Plaintiffs' Reply and related exhibits should be stricken.

For the reasons set forth in the accompanying Memorandum in Support, the Court should grant the Motion.

Respectfully submitted,

MATT MARTORELLO

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th of April, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will then send a notification of such filing (NEF) to all counsel of record.

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